IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

M/s. Shri Ram Traders Vs. Smt. Laxmi Devi
S.B. CIVIL REVIEW PETITION NO.12/2006

Review Petition under Sec.114 & Order 47 Rule 1 CPC against judgment dated 06.02.2006 passed in Civil Regular First Appeal No.205/2003.

DATE OF ORDER :: January 9, 2007.

PRESENT

HON'BLE MR.JUSTICE SATYA PRAKASH PATHAK

Mr. Himanshu Maheshwari for petitioner.

By this review petition, the petitioner seeks review of the judgment dated 06.02.2006 passed by this Court in Civil Regular First Appeal No.205/2003 - M/s. Shri Ram Traders Vs. Smt. Laxmi Devi affirming the judgment and decree passed by learned Addl. District Judge (Fast Track) No.2, Jodhpur decreeing the suit in favour of the plaintiff for eviction and recovery of due rent.

The contention of the learned counsel for the petitioner is that while deciding the First Appeal it has been

wrongly presumed that plaintiff or her father had informed verbally or by registered notice about the purchase of the suit shops by the plaintiff. It has also been submitted that the Court has committed error on the face of record while drawing a conclusion that the order of default has not been challenged. The contention is that the day on which the final judgment and decree was passed, on the same day the defence of the defendant against eviction was struck off, therefore, there was no occasion to challenge the same separately and the same has been challenged in the appeal itself. It has also been submitted that statement of Keshar Singh has not been considered wherein he has stated that he did not sell the disputed shops to the plaintiff.

I have considered the submissions made before me.

At the outset, it is stated that scope of review is very limited and while hearing review petition only when it is satisfied that the Court has committed error apparent on the face of record and the error is such which has affected the final outcome of the case, till then in my humble opinion

no interference is required to be made by re-appreciating the entire material. The arguments which are being advanced before me are available at Page 8 & 9 of the judgment passed in First Appeal. This Court, after hearing both sides, framed three points for determination, which were in relation to default committed by petitioner and information to the petitioner regarding purchase of the suit shops by the plaintiff and also in relation to making any interference in the impugned judgment and decree passed by the learned trial Court. It was found while discussing the evidence and arguments of the petitioner in detail, which is available at Page 11 of the judgment of this Court, and after detailed discussion it was found that petitioner was having information about purchase of the suit shops by the plaintiff and it was also found that petitioner committed default in relation to making payment of arrears of rent provisionally determined for the year 1994-95. Time was allowed to deposit same but same was not paid and in 1996 and 1997 also arrears of rent were not paid. The trial Court struck the defence against eviction of the defendant. The statement of Kesar Singh was not considered by the trial Court for the reason that no-cross examination was done

from Keshar Singh and as he died his statement was not taken into consideration. The sale deed was registered one and was relied upon by the trial Court. In view of the statements of witnesses examined by the plaintiff, the trial Court found that plaintiff was entitled to get vacant possession and arrears of rent. The findings of the trial Court on issues framed by it were confirmed by this Court.

The points for determination framed by this Court were decided in the First Appeal against the petitioner, therefore, the judgment and decree passed by the learned trial Court was affirmed.

I do not find any infirmity or error apparent on the face of record which may require any interference by this Court in this review petition.

In view of above discussions, the review petition stands dismissed summarily.

(SATYA PRAKASH PATHAK)J.

/jpa